U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21943332

Date: AUG. 8, 2022

Appeal of Washington, DC Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant has applied to adjust status to that of a lawful permanent resident and seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i). U.S. Citizenship and Immigration Services (USCIS) may grant a discretionary waiver if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives.

The Director of the Washington, DC Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the record did not establish the requisite extreme hardship to his spouse, the only qualifying relative in the case. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Any foreign national who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under the Act, is inadmissible. Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i). This ground of inadmissibility may be waived as a matter of discretion if refusal of admission would result in extreme hardship to a U.S. citizen or lawful permanent resident spouse or parent. Section 212(i) of the Act. A determination of whether denial of admission will result in extreme hardship depends on the facts and circumstances of each case. *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999) (citations omitted). We recognize that some degree of hardship to qualifying relatives is present in most cases; however, to be considered "extreme," the hardship must exceed that which is usual or expected. *See Matter of Pilch*, 21 I&N Dec. 627, 630-31 (BIA 1996) (finding that factors such as economic detriment, severing family and community ties, loss of current employment, and cultural readjustment were the "common result of deportation" and did not alone constitute extreme hardship). In determining whether extreme hardship exists, individual hardship factors that may not rise to the level of extreme must also be considered in the aggregate. *Matter of Ige*, 20 I&N Dec. 880, 882 (BIA 1994) (citations omitted).

An applicant may show extreme hardship in two scenarios: 1) if the qualifying relatives remain in the United States separated from the applicant and 2) if the qualifying relatives relocate overseas with the applicant. *See* 9 *USCIS Policy Manual* B.4(B), https://www.uscis.gov/policymanual. Demonstrating

extreme hardship under both of these scenarios is not required if the applicant's evidence demonstrates that one of these scenarios would result from the denial of the waiver. *See id.* (citing to *Matter of Calderon-Hernandez*, 25 I&N Dec. 885 (BIA 2012) and *Matter of Recinas*, 23 I&N Dec. 467 (BIA 2002)).

If the applicant demonstrates the existence of the required extreme hardship to a qualifying relative(s), then they must also show that USCIS should favorably exercise its discretion to grant the waiver. Section 212(i) of the Act. In these proceedings, it is the applicant's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Director's decision summarized the facts surrounding the Applicant's inadmissibility, which we incorporate here and which the Applicant does not contest on appeal. The Director discussed, in part, the Applicant's assertion that his spouse would not relocate to Ghana with him and that due to her low income, she would be severely hampered in being able to afford visiting him in Ghana. The Director further discussed the contention that the Applicant would have difficulty earning income in Ghana to support his family in the United States, noting that the Applicant provided a World Bank press release stating that COVID-19 restrictions have affected employment in Ghana. The Director also acknowledged, among other things, the Applicant's contentions that his spouse receives her medical care through his health insurance, that he has a very close relationship with the couple's children, and that he has a lifetime medical benefit from an on-the-job injury. The Director found that although the Applicant's spouse's psychological evaluation indicated she has immature psychological defenses, it did not indicate an abnormal personality or elevated depression or anxiety. The Director further found that both the Applicant and his spouse appeared to be skilled, healthy, and physical able to maintain their current employment, and that the Applicant's employment did not require a license or certification that would be non-transferable to employment in Ghana. After considering the totality of the evidence, the Director denied the waiver application, concluding that the Applicant did not establish hardship to his spouse that was over and above the normal disruptions involved in the removal of a family member.

On appeal, the Applicant submits a brief, arguing that the Director misconstrued the evidence and failed to evaluate the totality of the hardship factors. The Applicant reiterates that his spouse will not relocate to Ghana with him and, therefore, he need only establish that his spouse would suffer extreme hardship upon separation. According to the Applicant, the Director ignored evidence regarding the economic crisis in Ghana and improperly speculated that his spouse would not be significantly impacted by the loss of medical insurance through the Applicant. In addition, the Applicant contends that there is no requirement that a qualifying relative must currently have a psychiatric disorder in order to establish sufficient emotional hardship. He states that his spouse's absence of a psychological diagnosis does not necessarily mean that she is not experiencing significant psychiatric symptoms related to his immigration situation, particularly considering her immature defenses and the fragility of her emotional state. The Applicant states his spouse would become impoverished and forced to take care of their three young children alone.

We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) ("we join eight of our sister circuits in ruling that the Board [of Immigration Appeals] need not write at length merely to repeat the IJ's [Immigration Judge's] findings of fact and his reasons for denying the requested relief, but, rather, having given individualized consideration to a particular case, may simply state that it affirms the IJ's decision for the reasons set forth in that decision."). Although we acknowledge the challenges of being a single parent and that the Applicant's spouse has some mental health issues, the record does not show that she has any physical or mental impairment that affects her ability to work or carry out other activities, or that she requires the Applicant's assistance as a result. There is no indication the couple's children have any special needs. According to the Applicant's spouse, her father, stepmother, and six siblings live close by, in addition to more than 30 other relatives who also live in the United States, and there is no evidence that other family members are unable or unwilling to assist her, if needed.[1] Even considering all of the evidence in its totality, the record is insufficient to show that the Applicant's spouse's hardship would rise beyond the common results of removal or inadmissibility if she remains in the United States without the Applicant.[2] Because the Applicant has not demonstrated extreme hardship to a qualifying relative if he is denied admission, we need not consider whether he merits a waiver in the exercise of discretion and, therefore, reserve the issue, as did the Director.[3] The waiver application will remain denied.

ORDER: The appeal is dismissed.

[1] The Applicant's spouse attested that her father, stepmother, and six siblings live close by, and that she has more than 30 other relatives who also live in the United States.

[2] Because the Applicant and his spouse attested that relocation is not an option, we evaluate the record for hardship during separation only.

[3] Our reservation of this issue is not a stipulation that the Applicant overcame this alternate ground of denial and should not be construed as such. Rather, there is no constructive purpose to addressing it because it cannot change the outcome of the appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015).